



Office of the Attorney General

State of Texas

June 23, 1993

DAN MORALES

ATTORNEY GENERAL

Mr. John T. Hoeft
General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR93-337

Dear Mr. Hoeft:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 19960.

Dallas Area Rapid Transit ("DART") has received a request for certain environmental information. Specifically, the requestor seeks "[a]ny and all environmental records and reports pertaining to three sites that were considered by the DART board as the location for a proposed Pleasant Grove Transit Center." The requestor seeks such information for sites 5, 6, and 7. You advise us that some of the requested information will be made available to the requestor. You object, however, to release of the remaining information, which you have submitted to us for review, and claim that it is excepted from required public disclosure by section 3(a)(5) of the Open Records Act.

Section 3(a)(5) excepts from required public disclosure

information pertaining to the location of real or personal property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real or personal property for public purposes prior to the formal award of contracts therefor.

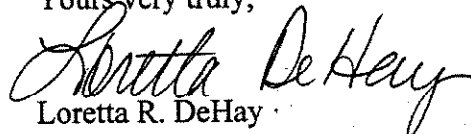
Section 3(a)(5) is designed to protect a governmental body's planning and negotiating position with regard to particular transactions. Open Records Decision No. 564 (1990). Whether particular information falls under section 3(a)(5) is a question of fact, and the attorney general will accept a governmental body's good faith determination that release of such information would damage its future negotiating position. *Id.* Information excepted under section 3(a)(5) which pertains to negotiations for the acquisition of real

or personal property may be excepted so long as the transaction is not complete. Open Records Decision No. 310 (1982).

DART advises us that its negotiations for the acquisition of the real property at issue here are ongoing and claims that its negotiating position would be impaired if the information submitted to us for review is disclosed. We have examined the information submitted to us for review and conclude that DART has made a good faith determination that release of the information would damage its negotiating position with respect to its acquisition plan. Accordingly, the information submitted to us for review may be withheld from required public disclosure under section 3(a)(5) of the Open Records Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,


Loretta R. DeHay
Assistant Attorney General
Opinion Committee

LRD/GCK/jmn

Ref.: ID# 19960
ID# 20001

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